

November 30, 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
445 - 12th Street, S.W.
Room TW-A325
Washington, DC 20554

Re: *Quincy Newspapers, Inc. Reply Comments in MB Docket No. 04-256,
Rules and Policies Concerning Attribution of Joint Sales Agreements in
Local Television Markets*

Dear Ms. Dortch:

These comments are submitted by Quincy Newspapers, Inc. (“QNI”) in reply to the initial comments filed in the above-captioned proceeding.¹ QNI’s affiliated companies are the licensees of eleven television stations in Nielsen TV market numbers 85 through 163. QNI supports the comments of the many broadcasters that oppose adoption of the Commission’s proposal to revise its attribution rules and declare that a television station subject to a joint sales agreement (“JSA”) is attributable to the brokering station under the Commission’s broadcast ownership rules.

First, as many commenters have explained, the proposal to change the attribution of television JSAs is premature.² After the Commission revised its local television multiple ownership rule in 2003 to allow under certain circumstances the common ownership of two stations in the same market, as long as a single entity did not acquire an attributable interest in more than one station ranked in the market’s top four,³ several parties filed petitions for reconsideration of the latter restriction. These petitions are still pending. Also pending is the Commission’s response to a remand by the U.S. Court of Appeals for the Third Circuit regarding the local television ownership limits the Commission adopted in 2003.⁴ Because the attribution rules are integrally related to the ownership limits, the instant proceeding should await the outcome of the Commission’s pending proceedings on new television ownership limits. As the NAB noted, it is virtually impossible for the Commission to discern the impact of changing the television attribution rule without first deciding new television ownership limits.⁵

¹ *Rules and Policies Concerning Attribution of Joint Sales Agreements in Local Television Markets*, Notice of Proposed Rule Making, MB Docket No. 04-256, FCC 04-173, 19 FCC Rcd 15238 (2004) (“NPRM”).

² See, e.g., Comments of Nexstar Broadcasting, Inc. (“Nexstar”) at 3-4; Comments of Granite Broadcasting Corporation (“Granite”) at 14-15; Comments of the National Association of Broadcasters (“NAB”) at 7-8.

³ *2002 Biennial Regulatory Review*, 18 FCC Rcd 13620 (2003) (“Report and Order”), affirmed in part, remanded in part, *Prometheus Radio Project v. FCC*, 373 F. 3d 372 (3rd Cir. 2004) (“Prometheus”).

⁴ *Prometheus*, *supra*.

⁵ *NAB* at 8.

The initial comments also have demonstrated that the underlying premise of the NPRM -- “that JSAs have the same effect in local TV markets that they have in local radio markets and should be treated similarly [for attribution purposes]” -- is not factually supported.⁶ The initial comments have shown that local television markets are fundamentally dissimilar to local radio markets in several ways, including the following:

- local ownership rules for radio differ markedly from those governing television; not only is much more ownership consolidation permitted in local radio markets than in local television markets, but the Commission’s radio local ownership rules do not take into consideration the stations’ ranking in the market;⁷
- television stations face significant competition for local advertising, not only from other television broadcasters in the market but also from local cable operators, while radio stations compete for local advertising chiefly against other local radio stations;⁸
- same-market television JSAs alleviate financial burdens not faced by local radio broadcasters such as significantly higher operating costs and the expenses of the ongoing transition to digital television.⁹

Indeed, experience has shown that television JSAs provide significant public interest benefits in promoting diversity and competition, such as by allowing a smaller station either to stay on the air or to provide local news programming that it otherwise could not provide.¹⁰ Television JSAs also provide significant cost efficiencies that can allow broadcasters to focus their resources on acquiring new and diverse programming.¹¹

For these reasons, QNI strongly urges rejection or deferral of a Commission rule attributing television JSAs to the brokering station. If, however, the Commission nevertheless adopts such a new attribution rule, the Commission should permanently grandfather all television JSAs in existence on the date the new rule is adopted. Permanent grandfathering is essential to maintain the contractual arrangements and the expectations of the parties that entered into JSAs in accordance with Commission rules then in effect and to minimize disruption of television

⁶ *NPRM* at ¶2.

⁷ *See, e.g.*, Nexstar at 7-8; Granite at 2-5, 7-8; NAB at 9-10; Comments of Belo Corp. (“Belo”) at 6; Comments of NBC Universal, Inc. (“NBC”) at 6.

⁸ *See, e.g.*, Comments of Paxson Communications Corporation (“Paxson”) at 4-5; Belo at 5; NBC at 6.

⁹ *See, e.g.*, Belo at 8-9; Nexstar at 11; NAB at 9-11; NBC at 8.

¹⁰ *See* NAB at 2-3; Comments of Fisher Broadcasting Company at 3-9.

¹¹ *See, e.g.*, Paxson at 9-11.

